

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Margaret G. Klein)
Parcel ID #120MD-01101) Knox County
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$44,500	\$223,600	\$268,100	\$67,025

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 31, 2006 in Knoxville, Tennessee. In attendance at the hearing were Margaret G. Klein, the appellant, and Knox County Property Assessor's representatives Jim Beck and Ralph E. Watson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 7103 Rotherwood Drive in Knoxville, Tennessee.

The taxpayer contended that subject property should be valued at approximately \$240,000-\$250,000. In support of this position, the taxpayer argued that subject property experiences a diminution in value because it has only two bedrooms and is located in close proximity to less valuable homes. In addition, the taxpayer introduced eight comparable sales into evidence which she maintained supported a value of \$235,000 based upon their average sale price. Finally, the taxpayer testified that her home has 2 ½ baths not 3 full baths as indicated on the assessor's property record card.

The assessor contended that subject property should be valued at \$268,100. In support of this position, the property record card and three comparable sales were introduced into evidence.

I. Jurisdiction

The first issue before the administrative judge concerns jurisdiction. This issue arises from the fact that the disputed appraisal was not appealed to the Knox County Board of Equalization.

The administrative judge finds that the taxpayer filed an appeal with the assessor of property and had a hearing on April 29, 2005. Ms. Klein testified that she never received the notice that her appeal had been denied which Mr. Watson indicated was mailed to her on

May 8, 2005. Ms. Klein stated that she did not appeal to the Knox County Board of Equalization because she was unaware that her appeal had been denied. According to Ms. Klein she did not pursue the matter prior to the adjournment of the local board on June 30, 2005 because of pressing family matters and non-receipt of the previously referenced notice.

The administrative judge finds that the preponderance of the evidence supports a finding of “reasonable cause” under Tenn. Code Ann. § 67-5-1412(e). Accordingly, the administrative judge finds the State Board of Equalization has jurisdiction over this appeal.

II. Value

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . .”

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$263,900 by correcting the property record card to reflect that subject home contains 2 ½ baths not 3 full baths as indicated on the property record card.

Since the taxpayer is appealing from the determination of the Knox County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer’s comparable sales certainly provide a reasonable starting point. However, the administrative judge finds that those sales cannot provide a basis of valuation for the reasons discussed immediately below.

The administrative judge finds that the comparables must include a variety of homes because they contain anywhere from 1,750 to 3,250 square feet and sold for anywhere from \$199,500 to \$287,500. The administrative judge finds that generally accepted appraisal procedures require sales to be adjusted to account for such differences. As stated by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992):

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

The administrative judge finds that the procedure typically followed in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001).

The administrative judge finds that the taxpayer's analysis also lacks probative value because the sales prices of the comparables were simply averaged. The administrative judge finds that when deriving an estimate of value from comparative sales data, an authoritative textbook cautions that:

In selecting the single value estimate, the assessor must never average the results. Rather, the process requires the assessor to review the adjustments made and place the greatest reliance on the most comparable property. This comparable is the one that requires the fewest adjustments [Emphasis added.]

International Association of Assessing Officers, *Property Assessment Valuation* (2nd ed. 1996), pp. 123-24. Although the taxpayer's presentation was well prepared and organized, it did not conform to generally accepted appraisal methodology in this key respect.

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt’s claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the “stigma.” The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor’s attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$44,500	\$219,400	\$263,900	\$65,975

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of February, 2006.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Margaret G. Klein
John R. Whitehead, Assessor of Property